Appendix A

Superior Court, State of California
County of San Mateo

[Filed July 10, 1980]

COHN, J.

No. 206010

Margaret Tinsley, etc., et al.

vs.

Palo Alto Unified School District,
etc., et al.

DECISION

Petitioners bring this action as parents of and guardians of both minority and non-minority children who are attending school in the Ravenswood City School District, the Menlo Park Elementary School District, the Portola Valley Elementary School District, the Las Lomitas School District and Palo Alto Unified School District. The petition alleges that the children of California have a right to a public school education and wherever reasonably feasible, the right to an integrated education. It further alleges that of approximately thirteen thousand students attending elementary schools within the boundaries of the Sequoia Union High School District, approximately ten thousand non-minority students attend schools which are predominantly non-minority and approximately three thousand minority students attend schools which are predominantly minority. It further states that a compar-

able situation exists in the Palo Alto Unified School District. The petition basically argues that the remedy available is the reassignment of students between school districts and expressly does not allege that respondents have committed either de jure or de facto acts that have contributed "significantly or insignificantly" to the present situation of racially segregated schools.

All parties to this litigation agreed at the hearing that there is but one central issue in this case, i.e., the constitutionality of the constitutional amendment submitted to the people in the 1979 general election as Proposition I. Proposition I, which was passed by the electorate of this state by an approximate 60% majority, amended Art. I, Sec. 7 of the California Constitution by limiting the due process and equal protection clauses of the state constitution in so far as assignment or transportation of students is concerned to those obligations or responsibilities of the Equal Protection Clause of the 14th Amendment to the United States Constitution as permitted by federal decisional law. Fundamentally, in this one field, it prohibits the California Courts from going farther than the federal courts. It specifically does not prohibit "the governing board of a school district" from doing whatever it wants within the confines of California law with school integration plans.

If Proposition I is adjudged constitutional, under the U.S. Supreme Court's ruling in Milliken v. Bradley, 418 U.S. 717 (decided July 25, 1974), a court may not impose a multi-district, areawide remedy for single district school segregation (with certain exceptions which are not pertinent herein.)

Petitioners earnestly argue that Proposition I violates the state constitution and the federal constitution.

The court notes that although petitioner has not abandoned the claim that it violates the state constitution, neither did they pursue it during oral argument. Suffice it to state that Proposition I is now a part of the California Constitution and could hardly be unconstitutional in a substantive way as to that constitution. The only meaningful argument that could be made would be in an adjective sense that somehow it was improperly passed. The court has examined petitioner's arguments as to a multitude of subjects in one amendment and an improper title and finds no merit in either argument. Both arguments would seem to fail under the criteria laid down by our Supreme Court in Amador Valley District v. State Bd. of Equalization, 22 Cal. 3rd 208.

Turning to the argument that Proposition I violates the 14th Amendment of the U.S. Constitution, inasmuch as it merely limits California courts to what the federal courts can do under the federal constitution, it is indeed difficult to accept the contention that by limiting a state court's jurisdiction to that of the federal courts, there is somehow a violation of federal constitution.

Counsel for the petitioners strenuously argue that school children will be deprived of a right to a decent education because of a lack of integrated schools. A fair reading of Proposition I indicates that school boards within their own jurisdiction may assign or transport children in any manner or by any method. It is only the Courts that are limited in jurisdiction and then only to federal jurisdic-

tion. This court recognizes that the California Supreme Court has said that California citizens may have more rights or duties under the California Constitution than under the federal constitution; however, in the particular field of assigning or transporting school children, the people of California have placed a provision in the California Constitution limiting California Courts in the enforcement of that particular activity. It is the opinion of this court that the voters had a right to add such a provision to their constitution and that Proposition I is constitutional under both constitutions.

Petitioner's motions for partial summary judgment and their various motions to strike are all denied. Since petitioners have conceded in their pleadings that respondents have neither committed de jure nor de facto acts that have contributed to intra district racially segregated schools, the court is of the opinion that the 4th amended petition cannot be successfully amended to state a cause of action under the present constraints of Art. I, Sec. 7 of the California Constitution. The demurrers of the Ravenswood City School District, the Portola Valley Elementary School District and the Palo Alto Unified School District are all sustained without leave to amend. The court considers that this ruling makes all other motions presently submitted moot.

Dated: July 10, 1980

/s/ Melvin E. Cohn
Melvin E. Cohn
Judge of the Superior Court